

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th St. NW
Washington, DC 20554

Docket 03-66
Ex Parte
Ad Hoc MMDS Licensee Consortium

Dear Ms. Dortch:

I write briefly to ensure that the record in this proceeding is clear. The Wireless Communications Association International (WCAI) recently submitted an ex parte comment with an attached “memorandum” asserting that no commenter had discussed the possibility of creating new MMDS channels to be auctioned. (Ex Parte Comment of WCAI submitted May 25, 2004) In fact, the Ad Hoc MMDS Licensee Consortium (“AMLC”) filed a formal comment proposing just such an action on September 8, 2003. The AMLC argued that to the extent that present ITFS licenses are being used for commercial rather than educational purposes, they should be treated as commercial stations. We accordingly proposed that the Commission reclaim non-educationally used spectrum from the ITFS band and auction that spectrum off to commercial users. See AMLC comments at pp 8-12. In our view, this proposal followed quite directly from the Commission’s request for comments about how to deal with the fact that much of the ITFS spectrum was being used for purposes other than education. To the best of our knowledge, no one filed reply comments objecting to this proposal.

We emphasize that our proposal contemplated reclamation only of ITFS spectrum since it was founded upon the thesis that channels being used commercially should not continue to be licensed and regulated under the fiction that they are educational. We continue to support this view and believe it was well within the broad scope of the NPRM.

Sincerely,

/s/

Donald J. Evans
Counsel for AMLC